

U.S. Patent Application No. 09/606,575

REMARKS

1. Applicant thanks the Examiner for the Examiner's comments which have greatly assisted Applicant in responding.

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3. 35 U.S.C. §102(b).

The Examiner has rejected Claims 1-46 under 35 U.S.C. §102(b) as being anticipated by Prezioso (U.S. Patent No. 5,577,169).

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Applicant respectfully traverses.

Applicant is of the opinion that the Examiner did not establish a prima facie case of anticipation, because not each element of the claims under consideration are disclosed in the single prior art reference as required according to the Federal Circuit (W.L. Gore & Assocs. V. Garlock, Inc. 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983) (citing Soundsciber Corp. v. United States, 360 F.2d 954, 960, 148 USPQ 298, 301 (Ct. Cl.), adopted, 149 USPQ 640 (Ct. Cl. 1966)), cert. denied, 469 U.S. 851 (1984). See also Carella v. Starlight Archery, 804 F.2d 135, 138, 231 USPQ 644, 646 (Fed. Cir.), modified on reh'g 1 USPQ2d 1209 (Fed. Cir. 1986); RCA Corp. V. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984).)

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Further, it is not enough that the reference disclose all the claimed elements in isolation. As stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention "*arranged as in the claim*." (Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).)

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30 See also MPEP 2131 (emphasis added):

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"The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

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Further, the Federal Circuit has indicated that "[i]n deciding the issue of anticipation, the trier of fact must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipating reference." (Id., 221 USPQ at 485.)

Specifically, as per Claim 1, the Examiner stated that Prezioso teaches:

"generating at least one multiple entity profile (i.e. "degree of membership (i.e. the values of the profile variables can be used to characterize the different members belonging to an entity" see Applicant's specification Page 4, lines 3-6) that a particular entity (physician) has for the behaviour characteristic of the peer group"; column 14, lines 16025) of at least one multiple entity defined by a combination comprising individual entities and interacting pairs of entities (i.e. "interaction between physician and patients"; see column 8, lines 53-64); from historical transactions that include the members of each of the individual entities included in a multiple entity (i.e. "interaction between physician and patient"; see column 8, lines 53-64) and that include interacting pairs of entities (column 8, lines 53-64; "interaction between physician and patient").

Applicant is of the opinion that the Examiner is confusing terminology and their respective definitions and is in error. Specifically, the Examiner is misusing the elements of the claims, **members of each of the individual entities, interacting pairs of entities, and multiple entity**, because he is not determining their meaning at least in light of the specification. An example of an entity is physician unit and a member is a particular doctor. An example of an interacting pair of entities is a physician unit and a patient unit, each of which units have specific doctors and specific patients, as captured through specific transactions, respectively.

Support can be found in the Specification as follows (emphasis added):

(On page 2, lines 5-14)

An **entity** is an operational unit within a given setting, application or environment and represents objects that interact within that setting, application or environment. The **members of an entity** are generally objects of a similar type. **Different entities** interact with each other and their interactions are encapsulated in the transaction

data corresponding to that application. Thus, **examples of entities** in a healthcare setting are clients, providers (this includes doctors, hospitals, pharmacies, etc.), clients' families, etc. and their interactions are captured in the claims data; i.e. the interaction of a healthcare provider and a patient is captured in a claim by the provider for reimbursement. In the credit card world, the **interacting entities** are account holders, merchants, credit card issuers, and the like and their interactions are captured through different types of transactions such as purchases and payments.

(On page 7, lines 3-8)

The result of this process is a cascaded profile that describes and summarizes the historical transaction patterns of multiple **interacting entities**, such as the transaction patterns of **entity pairs** (e.g., the transaction pattern of a particular provider and client together). The cascaded profile provides summary level statistics that are not available merely by summarizing transactions across a single individual entity, but only arise out of the **interactions of multiple entities**.

(On page 11, lines 18-21)

As shown in Table 2, a transaction typically contains identifiers for the **members of the various entities interacting in the particular transaction**, various date fields associated with or supporting the transaction data, and various category and quantity fields that encapsulate the activity that took place through the particular transaction.

From the above, it is evident that the claimed generating at least one multiple entity profile of at least one multiple entity defined by a combination comprising individual entities and interacting pairs of entities, from historical transactions that include the members of each of the individual entities included in a multiple entity and that include interacting pairs of entities specifically combines different entities, such as, by way of example, Provider and Client. Further support can at least be found in Fig. 9 and the accompanying text.

In stark contrast, Prezioso describes his meaning of entity and peer group as follows (emphasis added):

(Col. 6, lines 3-7)

As an example, when profiling physicians, **peer groups are typically comprised of physicians** of the same medical specialty located in demographically similar geographies (e.g. Chiropractors in Los Angeles, Calif.). **An entity in this peer group is an individual physicians 310.**

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(Col. 6, lines 33-38)

As another example, when profiling cashiers in the retail industry, **peer groups are typically defined as cashiers** that handle similar types of merchandise in stores located in demographically similar geographies (e.g. cosmetics cashiers in stores located in Chicago). **An entity in this peer group is an individual cashier.**

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It is evident from that above that what Prezioso names "entity" is what is supported in the patent application to be **member**, and what Prezioso names "peer group" is what is supported in the patent application to be **"entity."**

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Therefore, the Examiner is in error to reject the Claim on the basis that the claimed invention's generating at least one multiple entity profile (i.e. "degree of membership ... that a particular entity (physician) has for the behaviour characteristic of the peer group"; column 14, lines 16025), because all Prezioso is doing here is discussing the degree a particular physician has for the peer group of physicians. This does not teach the claimed invention's generating at least one multiple entity profile in light of the Specification.

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Further, the Examiner stated that Prezioso teaches at least one multiple entity defined by a combination comprising individual entities and interacting pairs of entities and cited Prezioso's col. 8, lines 53-64, displayed hereinbelow for convenience:

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As an example, when profiling physicians to search for fraud, there are many well known indicators of fraud that can be used as behavior characteristics. Some examples are: an abnormally high percentage of office visits taking place on Sundays and Holidays; an abnormally high percentage of office visits for patients living outside the normal geography of the physician's practice; an unusually high percentage of radiology visits; an unusually high average age for the patients of a pediatrician; an unusually high number of patients treated in a single day.

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First, the Examiner split the claimed limitation into two parts and then found support for each part in isolation, which incorrectly deviates from the meaning of the claimed invention in light of the Specification. To wit, the claimed limitation reads as follows:

- 5 generating at least one multiple entity profile of at least one multiple entity defined by a combination comprising individual entities and interacting pairs of entities, from historical transactions that include the members of each of the individual entities included in a multiple entity and that include interacting pairs of entities;
- 10 The Examiner cited split up his rejection as follows (emphasis added):
- generating at least one multiple entity profile (and cited col. 14, 16-25, which has nothing to do with multiple entities, only a single entity and a member) of at least one multiple entity defined by a combination comprising individual entities and
- 15 interacting pairs of entities, from historical transactions that include the members of each of the individual entities included in a multiple entity and that include interacting pairs of entities (and for the rest cited col. 8, lines 53-64, which discloses only profiling physicians and well known indicators of fraud),
- 20 which is not permissible.

However, Applicant has amended the independent Claims to further clarify that which is the invention. Support can be found in the Specification as follows (emphasis added):

- 25 (On page 18, lines 5-12)
- Consider two interacting entities T and A, with T being the target entity. Then, within a transaction, **the interacting pair of T and A (designated "T/A") can itself be considered an entity** and profile variables can be constructed for this pair as an entity using the same direct profiling process 103 that would be used for the
- 30 individual entities T and A. The profile dataset 202 for the interacting pair entity T/A is produced by the profiling process 103, and includes one observation for each member-pair of T and A that interacted with each other (i.e., were part of the same transaction, such as the specific provider and client in a healthcare transaction).
- 35 Therefore, in view of the above, Applicant is of the opinion that the prior art of reference does not teach all limitations of the claims and that the claims are in condition for

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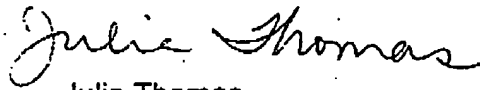
allowance. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections under 35 USC Section 102(b).

3. It should be appreciated that Applicant has elected to amend the Claims solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (9/8/00). In making such amendment, Applicant has not and does not in any way narrow the scope of protection to which Applicant considers the invention herein to be entitled. Rather, Applicant reserves Applicant's right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

CONCLUSION

Based on the foregoing, Applicant considers the present invention to be distinguished from the art of record. Accordingly, Applicant earnestly solicits the Examiner's withdrawal of the rejections raised in the above referenced Office Action, such that a Notice of Allowance is forwarded to Applicant, and the present application is therefore allowed to issue as a United States patent. The Examiner is invited to call to discuss the response.

Respectfully Submitted,



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